GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA

UNSTARRED QUESTION NO:1384
ANSWERED ON:26.07.2016
Undertrial Prisoners
Gandhi Dr. Dharam Vira

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether the Government has taken note of the number of undertrials detained in prisons for more than 3 months;

(b) if so, the details thereof and the reasons for their prolonged detention without being convicted;

(c) whether the Government has taken note of human rights violations occurring in the prisons concerning undertrials, especially the denial of their right to be confined in a space separate from convicted prisoners; and

(d) if so, the reasons for such violations and the corrective steps taken in this regard?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS
(SHRI HANSRAJ GANGARAM AHIR)

(a) to (b): As per data compiled by the National Crime Records Bureau at the end of 2014, there were 1,84,395 undertrial prisoners in the jails for a period greater than 3 months.

(c) to (d): "Prisons" is a State subject as per Entry 4 of List II of the Seventh Schedule to the Constitution of India. Therefore, the
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administration and management of prisons is primarily the responsibility of the State Governments. However, the Ministry of Home Affairs has prepared a new Model Prison Manual 2016 covering all aspects of prisons and the copy of the same has been sent to the States/UTs for guidance.

The following measures have been taken by the Government in respect of undertrial prisoners and to reduce the overcrowding in jails:

(i) A letter has been sent to all States/UTs on 14.8.2015 for taking necessary action for including the Secretary of the District Legal Services Authority as one of the members of the Under Trial Review committee.

(ii) An Advisory has been issued by the Government of India on 17.1.2013 to States/UTs regarding use of section 436A of the Cr.P.C to reduce overcrowding of prisons. The same can also be accessed on the website of Ministry of Home Affairs at the link:
http://mha1.nic.in/PrisonReforms/pdf/AdvSec436APrisons-060213_0.pdf
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(iii) The Union Home Minister has written to Chief Ministers/LG of States/UT on 3.9.2014 regarding use of section 436A of Cr. P.C. to reduce overcrowding in jails of the country.

(iv) The Hon'ble Supreme Court in its order dated 5.9.2014 in the Writ Petition No. 310/2005 − Bhim Singh Vs Union of India & Other relating to the undertrial prisoners has directed for effective implementation of Section 436A of the Code of Criminal Procedure. The DG (Prisons)/IG (Prisons) of all States/UTs have been requested on 22.9.2014 to take necessary action to comply with the order of the Hon'ble Supreme Court in the matter.

(v) An Advisory dated 27.9.2014 has been issued by the Government of India to the States/UTs on reckoning half-life of time spent in judicial custody of Undertrial prisoners under Section 436A of Cr. P. C. The same can also be accessed on the website of Ministry of Home Affairs at the link:

http://mha1.nic.in/PrisonReforms/pdf/GuidelinesForRreckoningHalfLife_161014.pdf
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